

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STEPHEN P. CURTIS,
LIBERTARIAN PARTY OF NEW MEXICO,
CHRIS LUCHINI
and
RANOTA Q.BANKS,

Plaintiffs,

v.

1:20-cv-00748-JB-JHR

MAGGIE TOULOUSE OLIVER,
in her official capacity as Secretary of State of New Mexico,

AGREED FINAL ORDER

THIS MATTER is before the Court on Plaintiff's Emergency Motion for Temporary Restraining Order and Preliminary Injunction ("Motion");

WHEREAS, the Court has reviewed the Motion and denied in part and granted in part Plaintiff's Motion for Temporary Restraining Order;

WHEREAS, Plaintiffs and Defendant have reviewed the evidence produced based on Plaintiffs subpoenas, including the stipulation entered into between the Plaintiffs and the Doña Ana Clerk revealing an underreporting for Mr. Curtis, and the images of the ballots cast in Bernalillo County, which revealed an underreporting for Bernalillo County for Mr. Curtis;

WHEREAS, upon review of digital scans of ballots produced, both Parties agree that an accounting of the write-in votes in Bernalillo County establishes that Plaintiff Stephen Curtis has

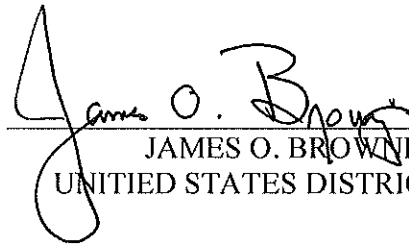
surpassed the threshold of 230 votes for a write-in candidate to qualify for the 2020 General Election ballot as a candidate for Position 2 on the Court of Appeals of New Mexico;

WHEREAS, the Defendant, which prior to the ordering of the subpoenas, did not have access to the information that evidenced the accounting issue, will in the future, ensure that all county clerks properly account for all write-in votes on the proper tally sheet in subsequent elections.

THE COURT finds that Plaintiff Stephen Curtis has qualified to be placed on the New Mexico 2020 General Election ballot as a candidate for Position 2 on the Court of Appeals of New Mexico. The Court therefore permanently enjoins and directs the Defendant that Stephen Curtis be placed on the 2020 General Election ballot for New Mexico for Position 2 on the Court of Appeals of New Mexico. The Preliminary Injunction Hearing scheduled for August 17, 2020 is VACATED. Defendant is also relieved of the previously ordered mandate in its Memorandum Opinion and Order, issued on August 14, 2020 (Document 24), that directed the New Mexico State Canvassing Board to count and account for all ballots cast in the Libertarian Party primary election for Position 2 on the Court of Appeals of New Mexico in Bernalillo County, since that effort has already been undertaken by the parties and it has revealed that Mr. Curtis has qualified for the general election ballot.

This is a final order and there is no just reason for delay under FRCP 54, as this Order adjudicates all remaining issues in the case, save the payment of Plaintiffs' reasonable attorney fees and costs. The parties have agreed to meet and confer to resolve that remaining issue, or barring an agreement on this issue, Plaintiffs may submit a motion within 30 days of this Agreed Order as provided in Local Rule 54.5.

IT IS SO ORDERED


JAMES O. BROWNING
UNITED STATES DISTRICT JUDGE

Have Seen and Agree:

/s/Christopher Wiest
Counsel for Plaintiffs

/s/Dylan K. Lange
General Counsel to the Office of the
Secretary of State of New Mexico
Santa Fe, New Mexico
Attorney for the Defendant

Counsel:

Stephen P. Curtis
Stephen P. Curtis Attorney at Law PC
Albuquerque, New Mexico

--and--

Christopher D. Wiest
Crestview Hills, Kentucky
Attorneys for the Plaintiffs.

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